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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,584	10/26/2001	James R. Buechler	5489-69021	2201

7590 08/31/2005

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EXAMINER

HERNANDEZ, OLGA

ART UNIT	PAPER NUMBER
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2144

DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/039,584

Applicant(s)

BUECHLER ET AL.

Examiner

Olga Hernandez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2001.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-52 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 10/26/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20702.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1, it is unclear if the "machine" in line 3 is the same "machine" in line

4. Clarification is required.

As per claim 9, how many "second provider" are claimed?

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1- are rejected under 35 U.S.C. 102(b) as being anticipated by Sato et al (5,911,687).

As per claim 1, Sato discloses a first healthcare provider to consult a second healthcare provider regarding at least one of diagnosis and treatment of a patient, wherein the first healthcare provider requesting a consultation on a machine, and the

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second healthcare provider submitting a consultation on a machine (figures 1, 10, 13, 14, column 7, lines 57-61, column 9, lines 4-7, column 12, lines 34-38).

As per claim 2, Sato discloses the first healthcare provider requesting a consultation on a machine, and the second healthcare provider submitting a consultation on a machine together include the first healthcare provider requesting a consultation on a first machine, and the second healthcare provider submitting a consultation on a second machine coupled to the first machine (column 12, lines 34-38, column 13, lines 24-27).

As per claim 3, discloses the first healthcare provider requesting a consultation on a first machine, and the second healthcare provider submitting a consultation on a second machine coupled to the first machine together include the first healthcare provider requesting a consultation on a first machine, and the second healthcare provider submitting a consultation on a second machine coupled to the first machine via third machine coupled to the first machine and to the second machine (figure 1, column 12, lines 20-38, column 13, lines 24-27).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 4-15, 17, 18, 20, 21, 23, 24, 26, 27, 29, 30, 32, 33, 35, 36, 38, 39, 41, 42, 44, 45, 47, 48, 50, 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al (5,911,687) in view of Ray (2002/0055176).

As per claims 4, 7, 8, 10 and 11, Sato does not teach the first healthcare provider requesting a consultation on a first machine, and the second healthcare provider submitting a consultation on a second machine coupled to the first machine via a third machine coupled to the first machine and to the second machine includes receiving the request for a consultation from the first machine at the third machine, storing the request for a consultation on the third machine, sending from the third machine a communication to the second healthcare provider (figure 1, column 12, lines 20-38, column 13, lines 24-27). Sato does not teach the request for a consultation is awaiting action by the second healthcare provider, the second healthcare provider retrieving the communication, and the second healthcare provider gaining access to the third machine. However, Ray teaches the awaiting action by the second healthcare provider and the second healthcare provider gaining access to the third machine (paragraphs [0004], [0010], [0060], [0061]). Thus, it would have been obvious to one skilled in the art to combine the aforementioned inventions in order to report the results of the analysis over a computer communications network such as the Internet so that the subject or his health care provider can access the results without having to wait for a courier or postal service to deliver written results.

As per claim 5, Sato teaches the second healthcare provider requesting a consultation on the second machine, and a third healthcare provider submitting a

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consultation on a fourth machine coupled to the second machine (figure 1, column 12, lines 20-38, column 13, lines 24-27).

As per claim 6, Sato teaches the second healthcare provider requesting a consultation on the second machine, and the third healthcare provider submitting a consultation on a fourth machine coupled to the second machine, and the third healthcare provider submitting a consultation on the fourth machine coupled to the second machine via the third machine coupled to the fourth machine ((figure 1, column 12, lines 20-38, column 13, lines 24-27).

As per claim 9, Sato does not teach identifying the request for consultation as pending until the second healthcare provider submits a consultation response. However, Ray teaches it in paragraphs [0004], [0010], [0060], [0061]. Thus, it would have been obvious to one skilled in the art to combine the aforementioned inventions in order to report the results of the analysis over a computer communications network such as the Internet so that the subject or his health care provider can access the results without having to wait for a courier or postal service to deliver written results.

As per claims 12 and 13, Sato does not teach identifying the request for consultation as a fulfilled when the first healthcare provider submits an indication of acceptance of the consultation response. However, Ray teaches it in paragraphs [0014], [0071]). Thus, it would have been obvious to one skilled in the art to combine the aforementioned inventions in order to report the results of the analysis over a computer communications network such as the Internet so that the subject or his health

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care provider can access the results without having to wait for a courier or postal service to deliver written results.

As per claims 14, 17, 20, 23, 26, 29, 32, 35, 38, 41, 44, 47, 50, Sato teaches submitting textual queries and textual statements (column 10, lines 40-42).

As per claims 15, 18, 21, 24, 27, 30, 33, 36, 39, 42, 45, 48, 51, Sato teaches submitting at least one still images and moving images (column 6, lines 52-64, column 7, lines 38-41).

Claims 16, 19, 22, 25, 28, 31, 34, 37, 40, 43, 46, 49 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al (5,911,687) in view of Ray (2002/0055176), further in view of Modney (6,014,432).

Neither Sato nor Ray teaches submitting sounds. However, Modney teaches it in column 3, lines 15-19. thus, it would have been obvious to one skilled in the art to combine the aforementioned inventions in order to enhancing communication between patient and healthcare provider, and optimizing proper diagnosis.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Hernandez whose telephone number is 571-272-7144. The examiner can normally be reached on Mon-Thu 8:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'OH' with a large loop at the end.

Olga Hernandez  
Primary Examiner  
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